



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 5/28/2021

ORM Number: 2021-00947-JLK

Associated JDs: N/A

Review Area Location¹: State/Territory: Wisconsin City: Little Chute County/Parish/Borough: Outagamie

Center Coordinates of Review Area: Latitude 44.29997 Longitude -88.30521

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
N/A.	N/A.	N/A.	N/A.	N/A.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetlands 2 and 3	0.04	acre(s)	(b)(1) Non-adjacent wetland.	Based on a review of aerial and ground level photos provided in the delineation report, Wetlands 2 and 3 are in depressional areas of a fallow field extending westward. Uplands are immediately surrounding these features that include residential development and manicured lawns to the north, northwest, and northeast, a paved roadway to the east, and commercial development to the south, southeast, and southwest. The delineation map shows the boundary of Wetland 2 is contained within the review area while the boundary of Wetland 3 extends outside of the review area to the west. However, a review of aerial photos provided via Google Earth indicates Wetland 3 does not extend further than the fallow field and is surrounded by uplands involving residential and commercial development. Historical aerial photos provided in the delineation report and via Google Earth (photos taken 05/2018, 04/2017, 04/2015, 10/2011, 05/2011, 06/2010, 06/2008, 06/2006, 05/2005, and 04/1992) primarily taken during the wetter months of the year, illustrate mostly dry conditions within the area. The Wisconsin Surface Water Data Viewer indicates the nearest (a)(1)-(a)(3) water is an unnamed tributary of Apple Creek approximately 0.29 mile to the northeast of Wetland 2 and a review of floodplain maps indicate no mapped floodplain for this tributary. A topographic map provided in the report displays the elevation of Wetlands 2 and 3 remains the same as the unnamed tributary (approximately 713). Additionally, there is a paved roadway separating these wetlands from the tributary and the previously mentioned aerial photos do not indicate the presence of a culvert. The distance of the unnamed tributary to the wetlands within the review area, the lack of a culvert and change in elevation, the lack of a mapped floodplain within the review area, and aerial photography, all indicate these wetlands do not abut the unnamed tributary to the

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				northeast, are not separated from this water by natural or man-made barriers, and do not receive flooding in a typical year from this water of the U.S.
Wetlands 1 and 4	0.16	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The wetland delineation map shows immediately surrounding areas are uplands involving roadways, residential development, and commercial development including manicured lawns. A review of historical aerial photos and ground level photos provided in the delineation report and Google Earth (photos previously mentioned) illustrate Wetland 4 is a man-made linear ditch constructed before 1938 while Wetland 1 is a man-made linear ditch constructed sometime before 2005. Furthermore, historical aerial photos do not indicate wet signatures where the ditches were constructed. A review of a soil map provided via the Wisconsin Wetland Inventory shows no mapped hydric soils within the review areas and further review of the Wisconsin Wetland Inventory and delineation map illustrates these ditches do not relocate a tributary and were not constructed in a tributary or wetlands. All this information combined demonstrates these ditches were originally constructed in uplands designed to convey water runoff.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: **McMahon Associates, Inc., Hartzheim Drive, Village of Little Chute, 2021 Wetland Delineation.**

This information is sufficient for purposes of this AJD.

Rationale: **N/A**

- ☐ Data sheets prepared by the Corps: **Title(s) and/or date(s).**
- ☒ Photographs: **Aerial and Other: Google Earth and Outagamie County GIS**
- ☐ Corps site visit(s) conducted on: **Date(s).**
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): **ORM Number(s) and date(s).**
- ☐ Antecedent Precipitation Tool: **provide detailed discussion in Section III.B.**
- ☐ USDA NRCS Soil Survey: **Title(s) and/or date(s).**
- ☐ USFWS NWI maps: **Title(s) and/or date(s).**
- ☐ USGS topographic maps: **Title(s) and/or date(s).**

Other data sources used to aid in this determination:



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Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local wetland inventory maps	Wisconsin Wetland Inventory
FEMA/FIRM maps	Floodplain Maps

B. Typical year assessment(s): [N/A](#)

C. Additional comments to support AJD: [N/A](#)